

ASSEMBLY BILL

No. 2036

Introduced by Assembly Member Bill Berryhill

February 17, 2010

An act to amend Section 3186 of the Civil Code, relating to works of improvement.

LEGISLATIVE COUNSEL'S DIGEST

AB 2036, as introduced, Bill Berryhill. Public works: stop notices.

Existing law provides that it is the duty of a public entity, upon receipt of a stop notice for a public work of improvement, to withhold from the original contractor, or from any person acting under his or her authority, money or bonds due or to become due to that contractor in an amount sufficient to answer the claim stated in the stop notice and to provide for the public entity's reasonable cost of any litigation thereunder.

This bill would require a public entity to promptly tender its defense to the original contractor in any litigation to enforce the stop notice, and, if the contractor accepts that tender, the bill would require the public entity to reduce the amount withheld to the amount necessary to answer the claim stated in the stop notice.

Because the bill would impose new duties on local public officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3186 of the Civil Code is amended to
2 read:
3 3186. It shall be the duty of the public entity, upon receipt of
4 a stop notice pursuant to this chapter, to withhold from the original
5 contractor, or from any person acting under his or her authority,
6 money or bonds (where bonds are to be issued in payment for the
7 work of improvement) due or to become due to that contractor in
8 an amount sufficient to answer the claim stated in the stop notice
9 and to provide for the public entity's reasonable cost of any
10 litigation thereunder. *The public entity shall promptly tender its*
11 *defense to the original contractor in any litigation to enforce the*
12 *stop notice, and, if the contractor accepts that tender, the public*
13 *entity shall reduce the amount withheld to the amount necessary*
14 *to answer the claim stated in the stop notice.* The public entity
15 may satisfy this duty by refusing to release money held in escrow
16 pursuant to Section 10263 or 22300 of the Public Contract Code.
17 SEC. 2. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.